IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

W.P.No. 24744 of 2003,

W.P.No. 25201 of 2003

and

W.P.No. 71 of 2004

-

WRIT PETITION NO : 24744 of 2003

Between:

The District Audit Officer, State Audit, Ongole Prakasam District.

..... PETITIONER

AND

1 S.Pardhasarati, s/o Venkata Swamy,
r/o Doruvu Bazaar, Kanigiri Mandal, Prakasam District.
2 N.Sriramulu, s/o Venkataiah
r/o Bhutamvaripalli, Kanigiri Mandal, Prakasam District.
3 K.Eswaramma, d/o Venkata Narayana
r/o 7th Ward, Kanigiri Mandal, Prakasam District.
4 Syed Anvarulla, s/o Khajamohiddin
r/o Yerra Obanapalli, Kanigiri Mandal, Prakasam District
5 S.V.S.Prasad, s/o Gopalakrishnaiah
r/o Sultanapuram Kanigiri Mandal, Prakasam District
6 A.Radha Krishna Murthy, s/o Guravaiah
r/o Chinayirlapadu, Kanigiri Mandal, Prakasam District
7 P.V.Narasaiah, s/o Kondaiah

r/o Baduguleru Kanigiri Mandal, Prakasam District

8 P.V.Ramanamma, w/o A.Balachennaiah
r/o Chakirala, Kanigiri Mandal, Prakasam District.

9 S.Venkatrami Reddy, s/o Venkataiah
r/o Kalagatla, Kanigiri Mandal, Prakasam District.

10 M.Balanarayana, s/o Venkata Subba Rao
r/o K.P.Challagirikala, Kanigiri Mandal, Prakasam District.

11 S.Nirmala, d/o China Venkataiah
R/o Chakirala, Kanigiri Mandal, Prakasam District.

12 S.K.Khaja Masthan, S/o Badesaheb
R/o Chakirala, Kanigiri Mandal, Prakasam District.

13 K.Nageswara Reddy S/o Sreeramulu Reddy
R/o Challagirigala, Kanigiri Mandal,
Prakasam District.

14 K.Prabhavathi D/o Luke
R/o Gollapalli, Kanigiri Mandal,
Prakasam District.

15 V.Venkateswara Reddy S/o Venkata Reddy
R/o N.Gollapalli, Kanigiri Mandal,
Prakasam District.

16 Y.Venkateswarlu S/o Laxmaiah
R/o Bapireddypalli, Veligandla Mandal,
Prakasam District.

17 K.V.Ramana Reddy S/o Venkata Swamy Reddy
R/o K.Agraharam, Veligandla Mandal,
Prakasam District.

18 D.Ravindra Reddy S/o Eswar Reddy
R/o Narasamambapuram, Veligandla Mandal,
Prakasam District.

19 Y.Venkata Reddy s/o Malakondaiah
R/o Sudhanaguntla., Veligandla Mandal.,
Prakasam District.

20 S.Vijaya Lakshmi D/o Konda Reddy
R/o K.Agraharam., Veligandla Mandal.,
Prakasam District.

21 N.Venkata Subbaiah s/o Pitchaiah
R/o K.Agraharam., Veligandla Mandal.,
Prakasam District.

22 V.N.Rama Krishna Reddy s/o Krishna Reddy
R/o Mangampalli., H.M.Padu Mandal.,
Prakasam District.

23 S.V.Rama Reddy s/o Konda Reddy
R/o Narayapalli., H.M.Padu mandal.,
Prakasam District.

24 M.Venkata Ramaiah s/o Venkataiah
R/o Thatithatlapalli., H.M.Padu Mandal.,
Prakasam District.

25 G.Kasi Reddy s/o China Obaiah
R/o H.M.Padu mandal., Prakasam District.

26 M. Lakshmaiah, S/o. Nagaiah,
R/o. S.R. Puram, H.M. Padu Mandal, Prakasam District.

27 M. Sesha Reddy, S/o. Pulla Reddy,
H.M. Padu Mandal, Prakasam District.

28 M. Mallesh, S/o. Venkata Ramana Reddy,
H.M. Padu Mandal, Prakasam District.
29 D.V. Konda Reddy, S/o. Konda Reddy,
Narayapalli, H.M. Padu Mandal, Prakasam District.
30 P. Basha, S/o. Moulaali,
R/o. Gorulapalli, C.S. Puram Mandal, Prakasam District.
31 B. Siva prasada Chary, S/o. Pitchaiah,
R/o. Kambhampadu, C.S. Puram Mandal, Prakasam District.
32 P. Nagabhushana Chary, S/o. Chenna Reddy,
R/o. Jinuguvaripalli, C.S. Puram Mandal, Prakasam District.
33 Y. Prabhakar Reddy, S/o. Chenna Reddy,
R/o. Botlaguduru, Pamuru Mandal, Prakasam District.
34 M. Sarojini, D/o. Nagi Reddy,
R/o. Pakala, Pamuru Mandal, Prakasam District.
35 B. Subrahmanyam, S/o. Auraiah,
R/o. Elchur, Santhamagaluru Mandal, Prakasam District.
36 D. Thirupathi Reddy, S/o. Not known to petitioner,
R/o. M.P.E.S. Sivapuram Tanguturu Mandal, Prakasam District.
37 The Director of State Audit, Andhra Pradesh, Hyderabad.
(Respondent No.37 is not necessary party in this Writ Petition).

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or Writ particularly one in the nature of Writ of Certiorari after calling for the records quash the orders passed in C.A. No.365 of 2003 dated 20-10-2003, 28-10-2003, 5-11-2003 and 20-11-2003 and declare that the petitioner has not violated orders in O.A.No.9989 of 2002 pass such other order or orders in the interest of Justice

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents 1 to 36: MR.P.V.RAMANA

Counsel for the Respondent No.37: (Not necessary Party)

WRIT PETITION NO : 25201 of 2003

Between:

The District Audit Officer, State Audit Guntur District, Guntur

..... PETITIONER

AND

1 G. Dasaratha rami reddy S/o Chennakesava Reddy
R/o Secondary Grade Teacher, Velpur Village, Achampeta Mandal,
Guntur District
2 The Mandal Education Officer, Achampet Mandal, Guntur District
3 Director of State Audit, Andhra Pradesh, Hyderabad

(Respondents 2 and 3 are not necessary parties to the present W.P.)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or Writ particularly one in the nature of Writ of Certiorari after calling for the records quash the orders passed in CA No. 408 of 2003 dt 20-10-2003 28-10-2003 5-11-2003 and 12-11-2003 in so far as petitioner is concerned 12-11-2003

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent No. 1: ----

Counsel for the Respondents 2 and 3: (Not necessary parties)

WRIT PETITION NO : 71 of 2004

Between:

The District Audit Officer, District Audit Office, Prakasam District at Ongole,
Rep: by Mr. Bhasker Reddy, S/o. Sri G. Venkat Reddy,
Aged 57 years.

..... PETITIONER

AND

1 B. Shiva Shanker Reddy, Secondary Grade Teacher,
M.P.P School, Tatireddypalli, Komarolu Mandal, Prakasam District.
2 M . Rama Krishan Reddy, Secondary Grade Teacher,
Mandal Parishad School, Sarvireddypally, Komarolu Mandal, Prakasam District.
3 Government of A.P., Rep. by its Secretary to Government,
Education Department, Hyderabad.
4 The Director of School Education,
A.P., Hyderabad.
5 The Chief Executive Officer,
A.P. Prakasam District.
6 The Mandal Parishad Development Officer,
M.P. Komarole, Prakasham District.
7 The Director of Local Fund Audits,
Abids, Hyderabad.
8 The Mandal Educational Officer,
Komarole, Komarole Mandal, Prakasham District.

(Respondents 3 to 8 are not necessary parties in the W.P.)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari calling for the records relating to C.M.A.No. 274 of 2003 in C.A.No. 589 of 2003 in O.A.No. 5438 of 1999 dated 23-12-2003, from the file of the A.P. Administrative Tribunal, Hyderabad and quash the same.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent Nos. 1 and 2: Mr. T.V. S. Kumar

Counsel for the Respondents 3 to 8: (Not necessary parties)

The Court made the following :

HON'BLE MR. JUSTICE BILAL NAZKI

AND

HON'BLE MR. JUSTICE P.S. NARAYANA

W.P.No. 24744 of 2003,

W.P.No. 25201 of 2003

and

W.P.No. 71 of 2004

COMMON JUDGMENT: (Per Hon'ble Mr. Justice Bilal Nazki)

The respondents herein filed O.As. before the Tribunal complaining that they were not given the benefits of revised pay scales of 1993 and 1999. They stated that the benefits of revised pay scales of 1986 were extended to them without giving the consequential benefits. These O.As. were disposed of. Thereafter writ petitions were filed and dismissed. The grievance of the respondents was that in spite of the dismissal of the writ petitions, the orders of the Tribunal were not being implemented and they filed contempt applications. In these contempt applications several orders dated 20.10.2003, 28.10.2003, 5.11.2003, 12.11.2003 and 20.11.2003 have been challenged in these writ petitions. Much can be said about the manner in which these orders have been passed and in which the Tribunal has conducted itself, but the basic question which has been argued at the bar is whether this Court has jurisdiction to entertain the writ petitions or not as the orders are passed in contempt applications.

The respondents in the contempt applications were Director of State Audit, District Audit Officer of the relevant district and Mandal Educational Officer of the relevant district. The main contention of the respondents before the Tribunal was that they were not empowered to implement the orders of the Tribunal in view of certain Government Orders. It was contended before the Tribunal that for implementation of revised pay scales, procedure has been laid down in G.O.Ms.No. 114, dt. 11.8.1999, which relates to revised pay scales of 1999 and it had been stated that in terms of this G.O. the revised pay scales of

1999 can only be given to those who have received revised pay scales of 1993 and with respect to the revised pay scales of 1993 instructions had been issued vide circular dt. 17.1.1998 that concurrence of the finance department was necessary and after obtaining the concurrence of the finance department, the respective Mandal Education Officers would forward the bills to treasury. Keeping in view this defence, a look of the necessary orders passed by the Tribunal is necessary. The relevant portion of the order dt. 20.10.2003 reads as under,

> "9. To avoid unnecessary delay in giving relief to the applicants, since much time has passed even after passing the orders in these matters by this Tribunal, necessary orders be passed and the Government may not come in the way of passing such bills and such bills are to be passed without reference to the Government Memo dt. 17.1.1998, referred to above, since the respondents have to implement the orders of this Tribunal. So, in this view of the matter, with the above observations, the second point is also answered and that plea of the first respondent cannot be accepted.
>
> 10. In view of what is stated above, necessary action should be taken to implement the orders of this Tribunal by issuing letter of authority to all M.E.Os. and compliance report submitted to this Tribunal within one week from today and if no action is taken by the first respondent and others, the first respondent should be present before this Tribunal to explain his conduct on the next date.
>
> Post on 27.10.2003.
>
> Supply a copy of this order to the learned G.P. as also to the respondents by 21.10.2003 and as already mentioned by the Tribunal while dictating the order, the respondents also shall take appropriate action in the matter."

The case then came up on 28.10.2003 and an order was passed, which reads as under,

> "When the matter is taken up today, the Director, State Audit is present. He represented that, he had issued instructions already to the District Audit Officer to receive the bills from the MEOs.
>
> The MEOs. shall send the bills to the District Audit Officers and the District Audit Officers are directed to issue a letter of authority forthwith without reference to Circular Memo No. 50841/367/A2/PC1/96, dt. 17.1.1998 by 31.10.2003. Necessary Memo should be filed about the compliance by the District Audit Officer of the directions of the Tribunal by 31.10.2003. The C.As are closed accordingly. The CMA is closed accordingly.
>
> Post on 31.10.2003."

Two things have to be noted from this order. One is that the Tribunal directed that no reference shall be made to Circular Memo No. 50841/367/A2/PC1/96, dt. 17.1.1998 and the second aspect of the order is that the contempt was closed. Even after closing the contempt application, it was written, "post on 31.10.2003" and on 31.10.2003 another order came to be passed. By this order, District Audit Officers were directed to issue special letter of authority and report back by 3.11.2003 and on the representation of the District Audit Officer, Ongole it was extended to 4.11.2003 and he was asked to comply with the order clearing the bills and special letter of authority should be issued for payment of amount. He was also told by the same order that he should not have recourse to his Director. The order reads as under,

> "Since, already directions were issued to the D.A.O., Ongole, that no recourse can be had from the Director, as the Director already agreed to give such a direction to the applicants, it is deemed that such a direction is complied with and the District Audit Officer has to act on that basis as per the directions of this Tribunal and he need not wait for further orders of the Director.
>
> Post this case on 4.11.2003."

On 4.11.2003 again the Tribunal passed an order. The Tribunal was informed that the orders from the Government are awaited and as such no time can be granted to the respondents. Then the objection of the respondents before the Tribunal was made in the following words,

> "2. It is to be noted here that already observation was made by this Tribunal that the Government cannot have any objection and the orders of the Tribunal shall be implemented and necessary bills should be passed without fail. On that basis, bills were received by the DAO, Prakasham district. But, when the applicants approached the authorities, the same plea is being taken which was taken earlier. It is to be noted here that the Tribunal on earlier occasion rejected the similar request of the Director and DAO."
>
> 3. In this view of the matter, since it is specifically mentioned in the earlier order by the Tribunal that the Government cannot have any objection and the bills have to be passed, the Director, State Audit, Tilak Road, Hyderabad is directed to pass orders complying with the directions of the Tribunal before 3 P.M. tomorrow i.e. 5.11.2003. Otherwise, the Director can make whatever submissions he wants to make in writing, so as to enable this Tribunal to pass appropriate orders in these contempt applications."

Thereafter the matter came up on 5.11.2003, when a detailed order was passed. The Tribunal held,

> "In so far as 1993 pay scales and increments thereon are concerned, since ratification of finance department is required, the respondents are directed to take steps to see that clearance is made quoting the orders passed by the Tribunal and the MEOs who are also parties to the CAs., are directed to assist the second respondent and his subordinates by doing necessary help to them in clearing the bills within ten days from today. The second respondent is also directed to send letters to the MEOs to attend to the concerned work immediately. Since the impediment is only with regard to getting ratification from the Finance Department under 1993 pay scales and there are no such instructions with regard to getting ratification of the Finance Department

with regard to 1999 revised pay scales, notional pay fixation should be made giving notional increments upto 1999 and thereafter financial benefits should also be worked out and paid under 1999 pay scales as well as 1986 pay scales and monetary benefits under 1993 pay scales be given effect to after obtaining orders from the Finance Department. This should be done within a period of ten days from the date of this order in case of 1986 pay scales and 1999 pay scales. With regard to 1993 pay scales, it should be made within a period of two months from the date of receipt of a copy of this order. In view of this, C.As are closed. CMA also stands closed."

As far as other reliefs were concerned, it is stated,

"At this stage, the first and second contemnors filed a written undertaking before this Tribunal stating that they will not raise any objection to admit and pass the bills so far releasing of increments of the applicants are concerned in the revised pay scales of 1986 in which they are now drawing their pay in the event the respective MEOs sanction the same and send the bills along with the sanction proceedings to the DAO, Ongole".

Again the matter was taken up on 20.11.2003, although it had been closed on 7.11.2003. The order dt. 20.11.2003 makes an interest reading and it is reproduced below in full,

"Contemnor Sri G. Bhaskar Reddy, DAO, is present. On last occasion, a representation is made in this matter that the MEOs. are not submitting the bills on 17.11.2003. The other side disputed that fact. So to confirm this, a direction was given to file an affidavit.

It is represented by Government Pleader that such instructions were given to him about not receiving the papers by contemnor from MEOs. The contemnor Sri G. Bhaskar Reddy, District Audit Officer, State Audit, Ongole, Prakasam District is not prepared to say that he did not issue such instructions. He wants to say something without complying with the orders of the Tribunal, wherein he was asked to file an affidavit.

So in the circumstances, considering the conduct of the contemnor, it is a clear case of contempt by not

complying with the directions given by this Tribunal on 17.11.2003. Obviously on one reason or other, even the orders passed in the main O.A. are disobeyed. The lenient view taken by the Tribunal is understood as incompetency and it should not be permitted to happen.

So by virtue of the powers under Rule 11 of A.P. Administrative Tribunal Contempt Rules r/w. Sec. 12 of Contempt of Courts Act, the Contemnor is sentenced to undergo 15 days simple imprisonment and Rs.200/- fine and in default of payment of fine, 3 days jail.

Subsequent to passing of the above order and before signing the above order, the contemnor has agreed to implement the order of the Tribunal in all those cases where bills are submitted by 25.11.2003 by issuing letters of authority. As already the Tribunal has considered the matter with regarding to the impediment imposed under para 7 of G.O.Ms.No.114 by stating that it cannot come in the way for implementing the order of the Tribunal. So, the Contemnor is directed to give an undertaking to the above effect in the form of an affidavit. It is made clear that the bills should be cleared in this month itself and amounts paid to the applicants based upon the bills submitted. Accordingly affidavit filed.

Post on 27.11.2003 for reporting compliance."

According to the writ petitioners, the undertaking which was recorded on 20.11.2003 was taken from them by the Tribunal on the threat of imprisonment of 15 days and fine of Rs.200/-, but they were not empowered to implement the orders of the Tribunal in view of certain Government Orders. In these circumstances the writ petitions have been filed. The orders passed by the Tribunal speak for themselves. This is not the way that the Tribunal could approach in a matter of contempt. The orders passed by the Tribunal give a feeling that the Tribunal was feeling itself aggrieved by the conduct of the writ petitioners, which is very unfortunate, but the question remains whether this Court has jurisdiction to entertain these writ petitions or not. All that was being said by the writ petitioners before the Tribunal was that in terms of the rules and G.Os. it was the Government which

was competent to pass orders and the Tribunal merely in its orders passed in O.As had asked the respondents to consider the case of the applicants before it. Now the Tribunal was going beyond the scope of the orders passed in O.As. The operative portion of the order in O.As reads as under,

> "For the reasons stated above, the respondents are directed to examine the case of the applicants herein in the light of the observations made by me above and also the orders of the Tribunal passed in the above cases and pass appropriate orders within a period of two months from the date of receipt of this order. The O.A. is disposed of accordingly with these directions. MAs. Also stand disposed of accordingly."

We are convinced that the Tribunal could not have passed the orders it had passed. At one stage even an advocate was not allowed to appear for one of the writ petitioners, which has been recorded by the Tribunal itself in its order dt. 27.10.2003. But the question remains whether this Court has jurisdiction to entertain the writ petitions or not. In this connection, reliance has been placed by the petitioners on a judgment of the Supreme Court reported in *Jhareswar Prasad Paul and another Vs. Tarak Nath Ganguly and others* wherein the Supreme Court held that the Court cannot in the guise of exercising jurisdiction grant substantive relief not covered by the order/judgment which is subject matter of the contempt proceedings. The Supreme Court held,

> "The Court exercising contempt jurisdiction is not entitled to enter into questions which have not been dealt with and decided in the judgment or order, violation of which is alleged by the applicant. The Court has to consider the direction issued in the judgment or order and not to consider the question as to what the judgment or order should have contained. At the cost of repetition be it stated here that the Court exercising contempt jurisdiction is primarily concerned with the question of contumacious conduct of the party, which alleged to have committed deliberate default in complying with the directions in the

judgment or order. If the judgment or order does not contain any specific direction regarding a matter or if there is any ambiguity in the directions issued therein then it will be better to direct the parties to approach the Court which disposed of the matter for clarification of the order instead of the Court exercising contempt jurisdiction taking upon itself the power to decide the original proceeding in a manner not dealt with by the Court passing the judgment or order. If this limitation is borne in mind then criticisms which are sometimes levelled against the Courts exercising contempt of Court jurisdiction "that it has exceeded its powers in granting substantive relief and issuing a direction regarding the same without proper adjudication of the dispute" in its entirety can be avoided. This will also avoid multiplicity of proceedings because the party which is prejudicially affected by the judgment or order passed in the contempt proceeding and granting relief and issuing fresh directions is likely to challenge that order and that may give rise to another round of litigation arising from a proceeding which is intended to maintain the majesty and image of Courts."

Similarly in *Suresh Chandra Poddar Vs. Dhani Ram and others* the Supreme Court held,

"This is an instance of how a Tribunal vested with the powers to punish for contempt of Court became over-sensitive in using such powers. Time and again this Court has cautioned as to when and in what circumstances Contempt of Court jurisdiction is to be exercised. Such a power is not intended to be exercised as a matter of course. Courts should not feel unduly touchy when they are told that the orders have not been implemented forthwith. If the Court is told that the direction or the order of the Court has been complied with subsequently, albeit after receipt of notice of contempt, we expect the Courts to show judicial grace and magnanimity in dealing with the action for contempt."

In *Indian Airports Employees' Union Vs. Ranjan Chatterjee and another* the Supreme Court held in paras-7 and 11,

> “7. It is well settled that disobedience of orders of Court, in order to amount to 'Civil Contempt' under Section 2(b) of the Contempt of Courts Act, 1971 must be 'wilful' and proof of mere disobedience is not sufficient. S.S. Roy v. State of Orissa, AIR 1960 SC 190. Where there is no deliberate flouting of the orders of the Court but a mere misinterpretation of the executive instructions, it would not be a case of Civil Contempt, Ashok Kumar Singh v. State of Bihar, AIR 1992 SC 407 : (1991 AIR SCW 3126).
>
> 11. In our view, these rival contentions involve an interpretation of the order of this Court, the notification and other relevant documents. We are not deciding in this contempt case whether the interpretation put forward by the respondents or the petitioners is correct. That question has to be decided in appropriate proceedings. For the purpose of this contempt case, it is sufficient to say that the non-absorption of these six sweepers was bona fide and was based on an interpretation of the above orders and notification etc. and cannot be said to amount to 'wilful disobedience' of the orders of this Court.”

Reliance has also been placed on a judgment of the Supreme Court reported in *J.S. Parihar Vs. Ganpat Duggar and others* .

The question raised by the learned counsel appearing for the respondents is not whether the contempt was committed by the writ petitioners, but he contends that this Court has no jurisdiction to entertain these writ petitions against the orders passed in contempt applications by the Tribunal. In view of this submission, the first question to be decided by this Court is whether this Court has jurisdiction to entertain the writ petitions or not. The question whether contempt was committed by the writ petitioners or not would be a consequential question. Similarly the question whether the orders passed by the Tribunal in contempt applications were out side the purview of the orders passed in O.As. would also be a consequential question. The learned counsel for the respondents has drawn our attention to a judgment of the Supreme Court reported in *T. Sudhakar Prasad Vs. Govt. of A.P. and others* . This judgment was passed in

the following factual background as noted by the Supreme Court in its judgment. An application under Section 17 of the Administrative Tribunal Act (for short "the Act") seeking initiation of proceedings against the alleged contemnor was filed complaining of wilful disobedience of the order passed by the Tribunal. The Tribunal initiated the contempt proceedings. The State of A.P. filed a writ petition in the High Court of A.P. challenging the jurisdiction of the Tribunal to take cognizance of the contempt. Another contempt application which had been filed without approaching the Tribunal under Section 17 of the Act was also pending before the High Court. In both the matters the only question which arose was whether such proceedings were appropriately maintainable before the High Court or the Administrative Tribunal. A Division Bench of this Court held that in view of the decision rendered by the Supreme Court in *L. Chandra Kumar Vs. Union of India* section 17 of the Act did not survive. It also held that the Administrative Tribunal set up under the Act could not exercise the contempt jurisdiction under Section 17 of the Act. Basically the question before the Supreme Court was whether the judgment in *L. Chandra Kumar*'s case had ousted the jurisdiction of the Tribunal to entertain contempt applications and whether because of the judgment in *L. Chandra Kumar*'s case the Tribunal had become subordinate to the High Court in terms of Article 227 of the Constitution of India. This was not accepted by the Supreme Court. However, the Supreme Court was of the view that the power to punish for contempt was available as it had been conferred on the Tribunals. It referred to Section 17 of the Act while analyzing the judgment in *L. Chandra Kumar*'s case. The Supreme Court was of the view that the Constitution Bench had not declared the provisions of Article 323-A (2) (b) or 323-B (3) (d) or Section 17 of the Act ultra vires the Constitution. Then the Supreme Court went on to meet the law laid down by the High Court that the Tribunal, because of the judgment in *L. Chandra Kumar*'s case, had become a subordinate to the High Court and the held,

> "Any order or decision of the Tribunal punishing for contempt is appealable under Section 19 of the Act to the

> Supreme Court only. The Supreme Court in the case of *L. Chandra Kumar* has nowhere said that orders of the Tribunal holding the contemnor guilty and punishing for contempt shall also be subject to judicial scrutiny of the High Court under Articles 226/227 of the Constitution in spite of remedy of statutory appeal provided by Section 19 of the Contempt of Courts Act being available. The distinction between orders passed by the Administrative Tribunal on matters covered by Section 14 (1) of the Administrative Tribunals Act and orders punishing for contempt under Section 19 of the Contempt of Courts Act read with Section 17 of the Administrative Tribunals Act, is this: as against the former there is no remedy of appeal statutorily provided, but as against the latter statutory remedy of appeal is provided by Section 19 of the Contempt of Courts Act itself."

Since the orders impugned in these writ petitions have been passed under the power of contempt available to the Tribunal under Section 17 of the Act, which is appealable, therefore we feel that this Court will not be in a position to entertain these writ petitions. The orders passed by the Tribunal, as we pointed out earlier, are unfortunate and could not have been passed. The Tribunal sentenced the writ petitioners, then did not sign the order and had taken an undertaking from them to implement its order. The orders which have been passed by the Tribunal intermittently in the contempt applications were mostly outside the scope of the orders passed in O.As., but, at the same time, we are of the view that the remedy of the writ petitioners is in the Supreme Court by way of an appeal and not by way of writ petition before this Court in view of the judgments of the Supreme Court in *L. Chandra Kumar Vs. Union of India* (6th supra) and *T. Sudhakar Prasad Vs. Govt. of A.P. and others* (5th supra).

For the reasons given hereinabove, the writ petitions are dismissed. No costs.

_____

BN J.

_____

PSN J.

Dt. 03.12.2004

KR

BNJ& PSNJ

A request is made for grant of leave to appeal to the Supreme Court. We don't think any substantial question of law arises, while disposing of these writ petitions, we have only followed the judgments of the Supreme Court. The learned counsel for the petitioners further wants suspension of this order for some time to enable the petitioners to approach the Supreme Court. Let status quo be maintained for six weeks. Copy of judgment be given in one week.

_____

BN J.

_____

PSN J.

Note:

Furnish copy of the Judgment in one week

B/o

Vrn

ASST. REGISTRAR

To

1. The District Audit Officer, State Audit, Ongole Prakasam District.

2. The District Audit Officer, State Audit Guntur District, Guntur.

3. The Mandal Education Officer, Achampet Mandal, Guntur, Guntur District
4. Director of State Audit, Andhra Pradesh, Hyderabad

5. The Secretary to Government, Govt. of A.P.,
Education Department, Hyderabad.
6. The Director of School Education,
A.P., Hyderabad.
7. The Chief Executive Officer,
A.P. Prakasam District.
8. The Mandal Parishad Development Officer,
M.P. Komarole, Prakasham District.
9. The Director of Local Fund Audits,
Abids, Hyderabad.
10 The Mandal Educational Officer,
Komarole, Komarole Mandal, Prakasham District.

11. 2CCs to G.P. for Services-II, High Court Buildings, Hyderabad (out)

12.2CD copies

13. The A.P. Administrative Tribunal, Hyderabad.